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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,524	03/01/2004	Douglas P. Gethmann	06005/39970	2733
4743	7590	06/24/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			GARCIA, ERNESTO	
		ART UNIT	PAPER NUMBER	
			3679	

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/790,524	GETHMANN, DOUGLAS P.
Examiner	Art Unit	
Ernesto Garcia	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 01 March 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-22 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 22 July 2004 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings were received on 07/22/2004. These drawings are not acceptable. The drawings do not comply with 37 CFR 1.121. The sheets are not labeled "Replacement Sheet" in the header of each sheet.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 7, the metes and bounds of the claim is unclear. The claim is defining the material of the locking mechanism to components not being claimed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-7 and 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans, 2,844,830 (see marked-up attachment).

Regarding claim 1, Evans discloses, in Figure 1, a locking mechanism comprising a body **1** and a wedge **2**. The body **1** extends along an axis **A9** and has an outer side surface **A10** sized. The body **1** defines a first axial end **A11** and a second axial end **A12**. The wedge **2** projects from the first axial end **A11** of the body **1**. The wedge **2** has an inner engagement surface **A16** and an outer engagement surface **A17**. The wedge **2** is sufficiently pliant.

Applicant is reminded that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. Therefore, the inner engagement surface **A16** can be adapted to engage an insertion end of a male member, and the outer engagement surface **A17** can be adapted to engage the threaded aperture of a female member.

Regarding claims 2 and 18, the wedge **2** forms a continuous rim extending around the first axial end **A11** of the body **1**.

Regarding claims 3 and 19, a central portion of the first axial end **A11** defines a cavity **4** that forms the inner engagement surface **A16**.

Regarding claims 4 and 20, the cavity **4** has a cone shape.

Regarding claims 5 and 21, the cone shape has a vertex angle of approximately 120 degrees.

Regarding claims 6 and 22, the wedge **2** is able to deform radially outward as an insertion force is applied to a male member.

Regarding claim 7, the locking mechanism is formed of a material having a similar hardness and strength as a male member and a female member.

Regarding claim 17, Evans discloses, in Figure 1, a locking mechanism comprising a body **1** and a wedge **2**. The body **1** extends along an axis **A9** and has a generally cylindrical outer side surface **A10** sized. The body **1** defines a first axial end **A11** and a second axial end **A12**. The wedge **2** projects from the first axial end **A11** of

the body **1**. The wedge **2** has an inner engagement surface **A16** and an outer engagement surface **A17**. The wedge **2** is sufficiently pliant.

Applicant is reminded that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. Therefore, the inner engagement surface **A16** can be adapted to engage an insertion end of a male member, and the outer engagement surface **A17** can be adapted to engage the threaded aperture of a female member.

Claims 1-7, 9-15, and 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Martus, 1,753,154 (see marked-up attachment).

Regarding claim 1, Martus discloses, in Figure 1, a locking mechanism comprising a body **A8** and a wedge **A13**. The body **A8** extends along an axis **A9** and has an outer side surface **A10** sized. The body **A8** defines a first axial end **A11** and a second axial end **A12**. The wedge **A13** projects from the first axial end **A11** of the body **A8**. The wedge **A13** has an inner engagement surface **15** and an outer engagement surface **A17**. The wedge **A13** is sufficiently pliant.

Applicant is reminded that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not

constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. Therefore, the inner engagement surface **15** can be adapted to engage an insertion end of a male member, and the outer engagement surface **A17** can be adapted to engage the threaded aperture of a female member.

Regarding claims 2 and 18, the wedge **A13** forms a continuous rim extending around the first axial end **A11** of the body **A8**.

Regarding claims 3 and 19, a central portion of the first axial end **A11** defines a cavity **15** that forms the inner engagement surface **15**.

Regarding claims 4 and 20, the cavity **15** has a cone shape.

Regarding claims 5 and 21, the cone shape has a vertex angle of approximately 120 degrees.

Regarding claims 6 and 22, the wedge **A13** is able to deform radially outward as an insertion force is applied to a male member.

Regarding claim 7, the locking mechanism is formed of a material having a similar hardness and strength as a male member and a female member.

Regarding claim 9, Martus discloses, in Figure 1, a locking assembly comprising a first connection member **A1**, a second connection member **A4**, and a locking mechanism **10**. The first connection member **A1** defines an insertion end **A2** formed with male thread **A3**. The second connection member **A4** defines an aperture **A5** formed with female thread **A6** complementary to the male thread **A3**. The locking mechanism comprises a body **A8** and a wedge **A13**. The body **A8** extends along an axis **A9** and has an outer side surface **A10** sized. The body **A8** defines a first axial end **A11** and a second axial end **A12**. The wedge **A13** projects from the first axial end **A11** of the body **A8**. The wedge **A13** has an inner engagement surface **15** and an outer engagement surface **A17**. The wedge **A13** is sufficiently pliant.

Applicant is reminded that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. Therefore, the inner engagement surface **15** can be adapted to engage an insertion end of a male member, and the outer engagement surface **A17** can be adapted to engage the threaded aperture of a female member.

Regarding claim 10, the first connection member **A1** comprises an extension stem, and the second connection member **A4** comprises a valve actuator rod.

Regarding claim 11, the wedge **A13** forms a continuous rim extending around the first axial end **A11** of the body **A8**.

Regarding claim 12, a central portion of the first axial end **A11** defines a cavity **15** that forms the inner engagement surface **15**.

Regarding claim 13, the cavity **15** has a cone shape.

Regarding claim 14, the cone shape has a vertex angle of approximately 120 degrees.

Regarding claim 15, the locking mechanism **10**, the first connection member **A1**, and the second connection member **A4** are formed of materials having similar hardness and strength.

Regarding claim 17, Martus discloses, in Figure 1, a locking mechanism comprising a body **A8** and a wedge **A13**. The body **A8** extends along an axis **A9** and has a generally cylindrical outer side surface **A10** sized. The body **A8** defines a first axial end **A11** and a second axial end **A12**. The wedge **A13** projects from the first axial end **A11** of the body **A8**. The wedge **A13** has an inner engagement surface **15** and an outer engagement surface **A17**. The wedge **A13** is sufficiently pliant.

Applicant is reminded that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. Therefore, the inner engagement surface **15** can be adapted to engage an insertion end of a male member, and the outer engagement surface **A17** can be adapted to engage the threaded aperture of a female member.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans, 2,844,830.

Regarding claim 8, Evans, as discussed above, fails to disclose the locking mechanism formed of a 300 series stainless steel. Applicant is reminded that, within the general skill of a worker in the art, selecting a known material on the basis of its suitability for the intended use is a matter of obvious design choice. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was

made to make the locking mechanism formed of a 300 series stainless steel, or any metal. *In re Leshin*, 125 USPQ 416.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martus, 1,753,154.

Regarding claim 16, Martus, as discussed above, fails to disclose the locking mechanism formed of a 300 series stainless steel. Applicant is reminded that, within the general skill of a worker in the art, selecting a known material on the basis of its suitability for the intended use is a matter of obvious design choice. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the locking mechanism formed of a 300 series stainless steel, or any metal. *In re Leshin*, 125 USPQ 416.

### ***Conclusion***

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stitt shows a similar locking assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30-5:30. The fax phone numbers

for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

E.J.

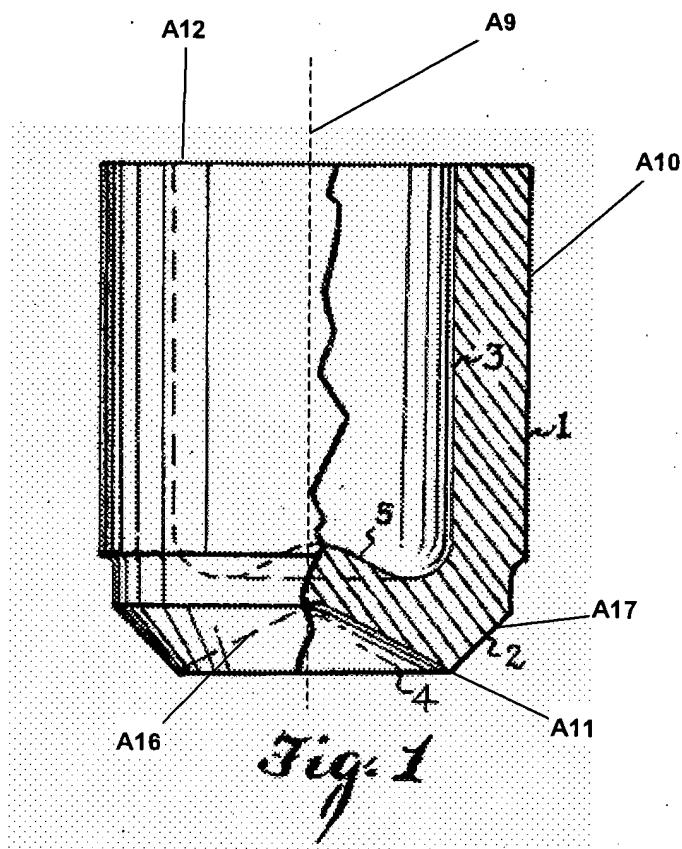
E.G.

June 21, 2005

Attachments: one marked-up copy of Evan, 2,844,830; and,  
one marked-up copy of Martus, 1,753,154

  
DAVID E. BOCHNA  
PRIMARY EXAMINER

Evans, 2,844,830



Martus, 1,753,154

